# THE MERITS AND DEFECTS
## OF THE
# PENNSYLVANIA BALLOT LAW OF 1891.

The Pennsylvania ballot law of 1891 is essentially a compromise measure, and will operate as the resultant of two very different forces. That it exists at all is due to the popular demand for ballot reform which has recently made itself felt throughout the whole country, spreading from State to State with wonderful rapidity. Up to four years ago the people of Pennsylvania knew but little of any other voting system than their own. Although the freedom and purity of elections was one of the great objects sought to be attained by the Constitutional Convention of 1873, the reported debates do not indicate that any of the delegates were aware that the problems confronting them had been satisfactorily solved in Australia fifteen years before; and this ignorance is hardly surprising, as even in England the Australian system had only just been adopted, and experimentally at that.

In 1882 the advantages of this system, as used in England, were made public in a brief pamphlet by Mr. Thomas Leaming, but it was not till 1888 that, following the example of Massachusetts and New York, a movement was started in Pennsylvania to secure practical ballot reform legislation. A bill on the Massachusetts model prepared by a joint committee of the Civil Service Reform Association and the Citizens' Municipal Association, was introduced in the Legislature by Mr. Baker, of Delaware county, in 1889, and though its opponents kept it from reaching a second reading in either the Senate or House, the persistent agitation in its support began to tell with the people. Confidence was shaken in a voting system which made known the contents of every man's ballot either absolutely or with practi-

cal certainty to those about the polls, and under which thousands of voters never even looked at their ballots, often because they did not dare to. Attention was drawn to the utter failure of our laws to prevent bribery or direct intimidation or what is worse, because far more common than either, the influence of the known wishes of a man's employer or associates or of the public officials under whom he serves. It was demonstrated that a secret ballot was the only remedy; not bribery laws, nor the oaths of secrecy taken by election officers, oaths but too little regarded when secrecy was never looked for.

During 1890 the Pennsylvania Ballot Reform Association was organized, and the movement gained ground rapidly throughout the State. The Baker bill of 1891 was prepared, differing from that of 1889 only in a more minutely careful adaptation of the new system to the needs of Pennsylvania and to existing laws which it was not desired to change. By the time the Legislature of 1891 met, the press of the State was practically unanimous in support of the bill, and its passage appeared to be desired by the great majority of the people.

Though the progress of the bill through the House of Representatives was slow, no serious opposition was manifested, and it went to the Senate on April 14th by a vote of 171 to 16, with scarcely any but formal changes, which had been either suggested or approved by the framers of the bill. In fact the Senate's delay was the only cause of anxiety till May 7th, when the Committee on Elections, which had previously listened to the arguments in support of the bill without any signs of hostility, reported the bill with such vital changes as to render its operation dangerous to the freedom and purity of elections, if not flatly unconstitutional. When this became known a storm of indignation swept over the whole State such as had probably never before been caused by any action of the Legislature. The Senate bent to the storm, re-referred the bill, and it was re-reported on May 20th in better shape, though with

many objectionable features. Further rehabilitation was steadily voted down by the Republican majority in the Senate in spite of the fact that the bill had been championed by a Republican in the House, and it was only in the last moments of the session that the persistence of Mr. Baker and a few others in the Conference Committee succeeded in effecting some changes which they hoped would render the bill a beginning of ballot reform, to last until something better could be had. In this shape it became a law, regulating all elections held after March 1, 1892.

For those who realize what the Pennsylvania ballot-law would have been but for the action of certain Senators it is hard to weigh and discuss calmly the effects of their treacherous work, but it is essential to further progress that laying aside all indignation and resentment, however just, against those who have for a time blocked the path, we ascertain precisely how far we have succeeded in advancing. The ballot-reform movement aims to secure a law which shall guarantee to all voters equal right to nominate officially the candidates of their choice, equal facilities for voting for any candidates nominated, equal freedom from coercion in every shape, and equal security against the unlawful use of money; and which shall further guarantee that every vote lawfully cast, and no others, shall be counted. The new law will, it is hoped, carry us a part of the way to the desired end, but much more is required, and a widespread familiarity with it, its merits and its defects, is needed in order that the next Legislature may be told with no uncertain voice just what features of this law should be changed and what form these changes should take. Besides, while the law is in force, very important consequences will turn on the manner in which it is carried out. Good or bad, it is the tool with which Pennsylvania will have to work for at least a year to come, and the quality of the work will depend in no small measure on the knowledge of the tool and how to use it. How far, then, let us ask, does the Act of 1891 establish the Australian voting system, and to what ex-

tent will the usual results of that system be obtained in Pennsylvania?

The object of a secret ballot, to describe it very briefly, is to prevent the bribery and coercion of voters by making it impossible for anyone who attempts to secure votes by these means to know with any certainty whether the corrupt bargain has been carried out or the command obeyed. The Australian system (the only really secret ballot system ever yet put in practice) attains secrecy by requiring that all the ballots used in any one voting room shall be precisely alike, containing the names of all candidates nominated, and that the names of those for whom a voter wishes to cast his ballot shall be secretly marked upon it by him immediately before he casts it. Besides the secrecy which directly results from this system there are other valuable incidental consequences which exist to a greater or less extent as the system is more or less perfectly carried out. Among these are the prevention of "trading," the reduction of necessary election expenses, the curtailment of the influence of money at elections, and the securing to the supporters of all candidates, without discrimination, equally complete facilities for voting.

Now, the Pennsylvania law does provide that the names of all candidates shall be officially published before the election and printed at public expense on official ballots, which alone can be used; that the voting shall be done in a room of adequate size, where the voter shall receive his ballot and mark it secretly at a screened desk; that the number on each ballot be concealed by pasting down the corner (so as to prevent any unauthorized use of the number to find out who has cast any given ballot); that for further security the lists to which these numbers refer shall be sealed up before the box is opened; that any serious defect in the printing of ballots shall be ground for holding a new election, and that any tampering with nomination certificates or papers or with the ballots, or any interference with voters or violation of the secrecy of the ballot shall be severely punished. All these provisions are good as far as they go but their actual

value can only be properly estimated after considering in detail those defects in the law which most seriously hamper its beneficial operation.

The first defect concerns nominations. In providing for official ballots containing the names of all candidates nominated, the first thing to be settled is what shall constitute such a nomination as to entitle the name of the candidate to be printed on the ballot.

Outside of the United States the usual provision is that a paper signed by a certain number of voters in support of a candidate, and properly filed, constitutes a legal nomination, and whatever the regulations as to time, number of signers, deposit of money, etc., may be (for these are not everywhere the same), no law as to this matter provides more than one way of making nominations for any given office. This is clearly the right principle and should prevail in America. The right to vote, guaranteed by the constitution of every State to all its citizens who possess certain simple qualifications, is not merely the right to ratify a choice already made by others, nor even to choose between two or more candidates selected by others, though in its practical exercise it is usually confined to the latter, and sometimes even to the former, as when one candidate only is nominated. It is the right to vote for any one who is legally qualified to hold the office to be filled, whom the voter may choose, and to do so on substantially equal terms with every other voter, our constitutions putting all qualified voters on an equality. Practically, however, all elections involve a previous nomination of candidates, and under the Australian system this is a very important preliminary, as only the names of those candidates who have been legally nominated are printed on the ballots. The right to vote on equal terms with every other voter for any one legally qualified to hold the office includes, therefore, under this system, the right to designate the candidate of one's choice, so that his name may be printed on the ballots, or, strictly speaking, the right to join with other voters in so doing, as for obvious reasons of

necessity this right can only be exercised by a number of voters acting together. As, however, all voters have the same right to join with others in making nominations all laws regulating the exercise of this right must be uniform for all voters. To make any distinctions among them, as to allow members of certain political parties to nominate by one method while requiring other voters to employ another method, is as wrong in principle as it would be to discriminate between party-men and others as to the method by which they shall cast their votes, or even, it would seem, as to how they shall pay taxes, execute deeds or wills, or perform any other personal act which the law undertakes to regulate.

Clear as this principle would seem to be, it has been very generally overlooked in the United States, and the fact that political parties have long been regarded as the only possible nominating bodies except in unusual cases, has influenced even legislation. Under nearly all American ballot reform laws the officers of conventions or other constituted authorities of parties (in most laws, those of a certain numerical strength only) may execute and file what are usually distinctively known as "certificates of nomination," while for nominations made by parties less fully developed or by voters acting outside of recognized party organizations a much larger number of persons must sign "nomination papers," as they are usually called.*

So long as no class of voters is prevented from making nominations with sufficient ease and so long as all nominations, however made, have precisely the same legal effect,

* In three American ballot reform laws this distinction does not exist. By the Louisville (Ky.) act nominations for the whole city are made by papers signed by fifty voters; those for a ward by ten. By the Delaware act all nominations are made by political parties, but a party is defined as "an organization of *bona fide* citizens and voters which shall by means of a convention, primary election or otherwise nominate candidates for public offices to be filled by the people at any general or special election within the State. No organization shall be regarded as a political party that does not represent at least one hundred *bona fide* citizens and voters in the county where it exists." Del. Laws of 1891, p. 85.

By the Michigan act the nominations recognized are those made at "any regularly called convention" of "any political party." Pub. Acts, Mich., 1891, p. 256.

this discrimination does little practical harm, but it should never be forgotten that it is wrong in principle and at best a temporary expedient, to be laid aside whenever public opinion shall so demand. To require all legal nominations to be made by papers, signed by a reasonable number of voters, would in no way interfere with the action of political parties. Their selection of candidates would go on just as at present, while the subsequent legal nomination would be made by a committee of the party, in the same manner as any other body of citizens.

The question of whether more than one method of nomination should be allowed is not merely a theoretical one. The very practical trouble with any distinction between the rights of political parties and of other bodies of citizens as to this, is that if once permitted it is very hard to keep it within proper bounds. The originators of the Pennsylvania law attempted this by providing that in the case of political parties who had at the preceding election polled at least three per cent* of the largest entire vote cast in the State, or in that portion of it for which the nomination was made, the certificates were to be signed and sworn to by the presiding officer and secretaries of the convention or other nominating body; while in other cases a nomination paper for the whole State should be signed by 1000 adult male citizens; for a city, county, judicial, legislative, or congressional office by 200, and for lesser offices by 25; the signatures to be vouched for by two of the signers to the best of their knowledge and belief. This did not suit the Senate committee at all, so that now, even after their figures have been cut down, a nomination paper must, if for an office to be

* Certificates of nomination can be filed in behalf of any political party in Arkansas, Ohio, and Tennessee; any political party or principle, in Idaho, Montana, North Dakota, South Dakota, and Washington; any political party which has at the election last preceding polled at least one per cent. of the vote cast in the State or that portion for which the nomination is made in Arizona (Ty.), Indiana, Maine, Maryland, Minnesota, Nebraska, New York, and Vermont; two per cent. in Illinois, Rhode Island, and Wisconsin; three per cent. in California, Massachusetts, Missouri, Nevada, New Hampshire, Oregon, Pennsylvania, and West Virginia; five per cent in New Jersey; and ten per cent. in Colorado.

filled by the voters of the State at large, be signed by qualified electors to the number of at least one-half of one per cent. of the largest entire vote cast for any officer elected in the State at the last election, while if the nomination is for a part of the State, signatures are required to the number of at least three per cent. of the largest entire vote cast at the last election for any officer elected in that portion of the State for which the nomination is made. This means that for next autumn's election about 2080 qualified electors must sign a nomination paper for the whole State, while for Philadelphia county about 3100 would be required.* A statement of the signer's residence and occupation must accompany each signature. The requirement of more signatures for a Philadelphia nomination than for one for the whole State is only less remarkable than the large number of the signatures required, all of which, as well as the qualifications of the signers, must be vouched for by the affidavit of five of the number.

In regard to these independent nominations there are two other regulations which demand attention. One is the proviso in Section 3, "That nomination papers which are not signed and made out in strict compliance with all the requirements of this Act shall be invalid," and the other in Section 33, that "Any person who shall willfully sign a nomination paper, as a qualified elector, such person not being a qualified elector, shall be guilty of a misdemeanor," punishable by a fine of $1000 or imprisonment for one year or both. If the first of these provisions means that independent nominations will be invalidated for the slightest irregularity, even though no objection be made to them within the time set by Section 6 (the Section in regard to objections to defective nominations), it is probably at variance with the purpose of the Act as expressed in that Section, no distinc-

* The number of signatures required for nomination papers appears to be reasonable in Arkansas, Colorado, Idaho, Indiana, Maryland, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oregon, Rhode Island, South Dakota, Tennessee, and Washington; high in Arizona Territory, Illinois, Maine, Massachusetts, Missouri, Vermont, West Virginia, and Wisconsin; and excessive in California, Minnesota, Nevada, New York, and Pennsylvania.

tion being there made between party and independent nominations, so that this most unreasonable discrimination is likely to be void. The use of the word "willfully" will probably make the other provision equally nugatory, but the ferocity which would punish as a crime the joining in an independent nomination without being technically qualified would be ludicrous, if it were not shocking. One would suppose that the Dracos of the Senate of Pennsylvania had never heard of any contests for seats in party nominating conventions, still less of any irregularities in the seating of delegates.

The intention of the Senate Committee in the bill as first reported was clear—to prevent all nominations but those of the two leading parties now existing, and even with the changes since made any other nominations are very difficult.

It is no argument to say that the number of signatures here required is but a small part of the number of votes needed to win an election. The full strength of the candidate of a political "machine" may perhaps be available at any time, but in other cases an active canvass is needed to call out the requisite support. To require an independent candidate at his nomination to have a support at all proportionate to what he can reasonably hope to receive on election day is far too hard a condition, and to require his nomination paper to be actually signed by any considerable number of his supporters, who shall be so well known that their signatures and qualifications as voters can be vouched for by five of their number, is in effect to require that every independent candidate shall be backed by an organization little less complete than that of a political party of long standing.

Voters have, moreover, a right to nominate, whether they hope to achieve success or only seek the moral effect of demonstrating their attachment to a particular candidate or principle. For this certain reason members of the Prohibition party, who find that their body, though well organized, is too small to nominate by filing certificates, and, believing apparently that they will be equally unable to nominate as independents,

claim that the law unconstitutionally prevents them from nominating and voting as citizens belonging to other parties may; and they have filed a bill in equity to prevent the law from being carried into effect in Philadelphia. As a matter of abstract principle they are right, the new law treating them unfairly, but it does not actually disfranchise them, since every voter can place on his ballot the name of any candidate not legally nominated. A return to the old law would hardly benefit them, as the practical working of that law was equally in the interest of the two leading parties. It is, therefore, hardly to be supposed that they will succeed in overthrowing the new law.*

Were the provisions of this law generally adopted elsewhere, it might seriously hamper the rise of a new party, such as occurred less than forty years ago, has been looked for ever since the issues raised by the war died out, and is sure to occur again whenever a political idea takes hold of the people without finding favor with any existing party. Fortunately the laws of other States (except New York) are more enlightened, so that no new political movement need have to wait till Pennsylvania changes her law. Possibly the other States might not in any event expect Pennsylvania to take the lead in such a movement.

Another serious fault in the law concerns the treatment of nominations defectively made. Provision is made for the filing of objections and for the hearing of all questions raised by them, but not for the correction of such errors as may be decided to exist. As Section 6 states that these certificates and papers "Shall be deemed to be valid unless objections thereto are duly made," the necessary inference follows that if any objection is sustained the certificate or paper objected to will be invalid and cannot be corrected. As this applies equally to party and independent nominations, it was most probably due to an oversight on the part of the Senate Committee who, for reasons best known to themselves, re-

* After argument, the injunction was refused by the Court of Common Pleas, No. 2, of Philadelphia County, March 17th, 1892. An appeal has been taken to the Supreme Court.

drafted the entire section. At all events the rectification of errors ought to be allowed under proper restrictions, as it was in the original draft of the law.

The third great defect in the law is in regard to the arrangement of names on the ballots and the marking of these names in voting.

It has already been stated that all qualified voters have a right to vote on equal terms with all other voters. This means that the law ought to do nothing to help or hinder the cause of any candidate voted for by any voter, and also that in so far as the law regulates the method of voting at all, it should require every one to vote by the same method, and should not make it speedier or easier for one man to vote than another. Superior intelligence or education may give some men advantages over others in this respect, just as the ability or popularity of some candidates may give them advantages not possessed by others, but the law should treat all alike.

Under the true Australian system, as adopted in several of the States, the names of all candidates are printed in alphabetical order under the titles of their respective offices, with the name of the party or policy represented by each. To vote for any candidate a mark has to be made against his name, except in the case of Presidential electors, where one mark suffices for the whole number. By this system a voter makes as many marks as there are candidates for whom he votes (except electors), whatever choice he may make among them. The most narrow partisan and the most thorough free-lance must each do precisely the same amount of work. There is no inducement to vote for one man rather than another to save trouble, nor any risk of voting for any man without being aware of it.

The original draft of the Pennsylvania law adopted this system, but the Senate Committee would none of it. The names of all candidates nominated by the majority party are first to be printed in one column, then those of other parties in other columns, and they may be voted for either individ-

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Clearly no prolonged argument is needed to show that these provisions of the law favor certain candidates as against others, and also require one class of voters to vote by one method while another class can use another method, precisely the things which, as already stated, no law ought to do. But these are not the only bad results. The secrecy of the ballot is materially impaired by this party-group system. A voter is not wholly screened from view while marking his ballot, so that it can be easily seen whether he makes one mark or several, and in any case the length of time employed would be some indication of what was done.

The voter's practical realization of what he is doing and for whom he is voting is even more impaired than the secrecy. It rarely happens that all the candidates on a given party ticket are better than their opponents. Usually some deserve to be elected, others not. The issues also, represented by the national and State candidates of the same party, may often be wholly distinct, while those represented by candidates for county offices are independent of either of the former. At a local election a like distinction must often be made between city and ward candidates. A thinking man who realizes what he is doing would rarely vote for every candidate of a particular party, from presi-

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dential elector to registrar of wills, or from mayor to election inspector, and to encourage this by making it easier to do so heightens the effect of blind party spirit and puts a premium on recklessness and lack of thought in the performance of one of the highest duties of the citizen. It may now be regarded as an axiom that one great cause of the municipal misgovernment which disgraces almost every American city is the fact that municipal nominations are made by national parties and for reasons of national party policy; but how are national, state, and local issues ever to be properly separated in the mind of the voter if the law actually encourages him to vote for presidential electors, congressmen, state, judiciary, county, and practically city officers all by a single cross mark?

The fourth great defect is in section 27, which relates to persons who are unable to mark their ballots without help. All voting requires both physical and mental action, and voting by secret ballot requires that the voter should be able to read and mark his ballot without letting any one else see it. If for any cause, mental or physical, he is unable to do this, either he must lose his vote or an exception as to the rule of strict secrecy must be made in his case.

In Pennsylvania the latter course must be pursued, for it is clear that the constitution does not authorize any regulation of the suffrage which would disfranchise* voters on account of illiteracy or physical infirmity. Under this constitution, however, public policy does undoubtedly require, in the interest of free and equal elections, that every voter should mark his own ballot unless absolutely unable to do so, and that the help then allowed should only be given under such regulations as would guard against all abuse. A voter who claims to need help in marking his ballot should

*In Cook *v.* State (Tenn.), 16 S. W. Rep. 471, it was held that illiterates were not disfranchised by being required to mark their ballots alone, and unaided except by previous instruction; but the contrary was held in Rogers *v.* Jacob, 88 Ky. 502.

be required to declare * explicitly in what his disability consists and should be subject to indictment in case the statement be false. The person deputed to help a voter in marking his ballot clearly ought not to be in the employ of any party or candidate, nor to have any personal interest whatever in the result of the election, and should be required to make a declaration that he will give the help required without attempting to influence the vote of the person helped. A record should be made of all such cases, so that punishment would surely follow any failure to mark as desired, or other violation of the law.

The Pennsylvania law, however, merely provides that "If any voter declares to the judge of election that, by reason of disability, he desires assistance in the preparation of his ballot, he shall be permitted by the judge of election to select a qualified voter of the election district to aid him in the preparation of his ballot, such preparation being made in the voting compartment."

Taken literally and without reference to other parts of the act, this section would seem to make the secrecy of the ballot purely a voluntary matter, and there is little doubt but that the Senate committee desired this result if it were possible. As no bill which openly defeated the generally desired object of securing a really secret ballot could have passed, it was apparently hoped that this little section should conceal enough legislative poison to destroy the vitality of the whole law and yet pass unnoticed until too late. Fortunately there seems to be enough healthy life in the rest of the act to overcome the lethal influence of section 27.

In the first place every part of a law must be construed

* In California, Colorado, Illinois, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire and New York such declaration must be sworn to; while in Maine, Massachusetts, Montana, North Dakota, Ohio, Oregon, South Dakota, Washington and Wisconsin the presiding election officer has discretion whether to require an oath or not. No oath is required in Arkansas, Maryland, Pennsylvania, Tennessee (where no help on the ground of illiteracy is allowed) and West Virginia; nor in Arizona Ty., Delaware, Indiana and Vermont, but in these four a penalty is expressly provided in case the declaration be untrue.

with reference to the whole, and the clear intent of this act, taken as a whole, is that the ballot shall be secret, except where this would result in the practical disfranchisement of a voter. The entire system of nominations, printing and distribution of ballots, arrangement of voting rooms, covering up the numbers, sealing up the lists, etc., has manifestly been elaborated for this special purpose, which alone would justify the expenditure of public money that is called for. If, therefore, the words of section 27 admit of any construction which does not make the secret ballot merely permissive, that construction must be adopted. Such a construction is, however, required not only by the general intent of the act, but also by the express language of other sections as regards the three classes of persons referred to in section 27, viz., voters who ask help in marking, judges of election, and voters selected to give the help asked for.

As to the first, section 31 provides that "A voter who shall, except as herein otherwise provided, allow his ballot to be seen by any person with an apparent intention of letting it be known how he is about to vote . . . shall be guilty of a misdemeanor" and punished as therein stated. The exception obviously refers to voters who, under section 27, are helped to mark their ballots, but if section 27 be construed as providing that any voter who declares, truly or falsely, that he is unable to mark his ballot without help, shall be allowed to let another person see it without being guilty of a misdemeanor, the whole value of this part of section 31 is destroyed. It is inconceivable that a penal section should be construed as intended to be of no effect in case a person simply declares that it ought not to apply to him, without his showing any reason for this, and whether his declaration be true or false. Clearly then in the light of section 31, section 27 must be understood not merely to mean that a voter shall declare that he desires help by reason of disability, in order to be allowed to receive such help, but that the disability must actually exist. Unless, therefore, a voter be actually unable to mark his ballot, either because he cannot read or on

account of physical infirmity, he will receive help under section 27 at his peril. Then, as to judges of election, section 34 provides that "Any public officer upon whom a duty is imposed by this act who shall negligently or willfully perform it in such a way as to hinder the objects of this act" shall also be guilty of a misdemeanor and punished. If a judge of election either willfully or negligently permits a voter to be helped in the preparation of his ballot, when such help cannot lawfully be given, he clearly brings himself within this section; and he therefore ought, for his own protection, to require of each voter asking such help a specific declaration as to his disability, and refuse to allow the help when it would clearly be unlawful.

Voters selected to help other voters are themselves subject to sections 24 and 31. By the former "No person, when within the voting room, shall electioneer or solicit votes for any party or candidate," and by the latter "Any voter . . . who shall willfully violate any provision of this act, or any person who shall interfere with any voter when inside said enclosed space, or when marking his ballot, or who shall endeavor to induce any voter, before depositing his ballot, to show how he marks or has marked his ballot . . . shall be guilty of a misdemeanor," and punished. These provisions are sufficient to cover the case of any one who gives help in marking when he knows it is not required, or who, even in a proper case for help, seeks to influence in any way the vote of the person whom he is helping.

Construed with reference to these other sections, section 27 is, perhaps, comparatively harmless, especially if it be generally understood that every attempt to violate this section, as so construed, will be strenuously opposed, and every known violation lead to a criminal prosecution; and it will be the duty of those who wish to see this law properly carried out to take all needful steps to guard against misuse of this section. Still, this whole matter, the most difficult to regulate of anything in the act, should be the subject

of stringent provisions, so clearly expressed as to be understood without argument.

The fifth defect in the act concerns the counting, a matter of the highest importance. The most complete provisions for the casting of ballots are valueless if fraud in the count be not guarded against. In view of the complaints of false counting which are made after every election the bill as drafted, following the example of the election laws, in most of our States, provided for a public count, the public being admitted within the voting room as soon as the voting ceases, but not within six feet of the ballot-box, and a peace-officer being always present to maintain order. The experience of other States indicates that this exercises a check on fraud and does not lead to disorder. The Senate committee, however, changed this so as to allow only the authorized watchers of the respective parties to remain during the count. If these men are honest and intelligent, their presence may do good, but if they are not, the risks of the old system of secret counting may be even increased. The method by which the votes are to be counted is not made absolutely clear. By the old law the inspectors were required to read off, in the presence of the judge, all the names on each ballot and the bill as drafted applied the same system to the names marked on the ballots. The act as passed provides that the judge himself shall count the number of ballots cast and that "the counting of the number of votes received by each person voted for shall then proceed," but it does not state who is to count these votes. There being no express repeal of the old law, it follows that this ought to be done under that law, i. e., by the inspectors, though of course it can no longer be their duty to read off all the names on the ballots. As, however, it is well known that the method of counting prescribed by the old law was habitually disregarded and the counting done in a way that was irregular, to say the least, it is most unfortunate that the new law does not start with provisions so clear as to be unmistakable.

Another serious defect in the law is its failure to provide for the proper identification of voters. The law of July 2, 1839, still in force, requires the inspectors to be sworn that they will not receive any ticket or vote from any person other than such as they shall firmly believe to be entitled to cast it, and also forbids inspectors to receive tickets from any person other than an elector residing within the township, ward, or other election district. In view of the extent to which personation is carried on in some districts and of the thousands of names improperly on the assessors' lists, the above provisions are clearly ineffectual and some regular system of identification ought to be provided. Every voter should be personally known to some election officer, or else vouched for by some other voter who is known, and a record should be made of every case where such vouching is required. This might be unnecessary if a thorough system of registration were possible under our constitution, but as it is no one should be allowed to vote without proper identification, which is at least as important in such a case as in that of the payment of a cheque. The bill as drafted did not, indeed, provide for identification, but an amendment to that effect was afterwards prepared and presented to the Senate committee, but rejected by them.

The Senate committee made various minor changes which injure the law more or less and the errors of transcription are numerous, but these matters are of little account compared with the six serious defects that have been dwelt upon.

In view of these defects the question of the extent to which this law will bring about the usual results of the Australian system cannot be answered off-hand, and as to some points time alone can show what answer must be given. Freedom of nomination we shall not have, nor a proper form of ballot, nor an open count, but as under the old law the theoretical freedom of nomination was practically taken away by the expense and virtual uselessness of independent campaigns, the form of ballot about as bad as could be

imagined, and the count thoroughly secret, we shall apparently be at least no worse off than before as to any of these matters.

In other respects the new system will be a decided improvement. The use of official ballots will lessen the excuse for large campaign funds, always a menace to the purity of elections, and will relieve non-partisan organizations of a heavy tax on their resources. In a non-partisan movement like those for Governor Pattison in 1890 and Mr. Wright in 1891 circulars and posters can be used, stating how the ballot should be marked. The official ballot will also put an end to such "trading" as disgraced a recent election in Philadelphia, when the largest majorities were received by the two Republican candidates whose nomination had been opposed by every good citizen and every reputable newspaper. Their strength lay in the fact that their names were covertly printed on Democratic ballots, and were voted for by thousands unconsciously, as well as by other thousands whose party slavery bound them to obey their local leaders. Voting will certainly be done more comfortably, with more of the dignity befitting this great prerogative of the citizen. The voter will no longer be compelled to stand out in the cold and wet of November and February, with numb fingers pressing down minute "stickers," that either refuse to adhere, or else do so in the wrong place and obliterate the most important names. He will vote in a room like a civilized human being, free from interference. The window-book-man and ticket peddler, those terrors to the nervous voter, will be transmuted into officially certificated watchers, but one of whom can represent his party in the voting-room at a time, and who must show their certificates when requested. With the names of all the candidates before him, made known previously, even to those wholly outside of "politics," by official advertisement, if a voter do not vote intelligently, it will be more his own fault than that of the partisan form of ballot. In the vast majority of cases the ballot will be really secret, and there will be little violation

of secrecy under pretense of inability to mark a ballot, if the law be properly enforced.

All questions to be voted on, including those as to the adoption of Constitutional Amendments, will be printed on the ballots, to receive a definite answer. Heretofore such questions have rarely had due consideration. Thus when the question of a Constitutional Convention was voted on last autumn, in the greater part of the State the leaders of both parties were opposed to a convention, and ballots against it were given out with both party tickets, those for it being only supplied on special request. The result of the vote may have been desirable, but the enormous majority against a convention was far from indicating a deliberate expression of opinion.

Last but not least, we shall have definitely abandoned the old open ballot, which was in some respects worse than *viva voce* voting, because it had the appearance of secrecy, but not the reality. We shall have entered on a new path, on which we are certain to move forward. What has been gained has been won by the force of public opinion. That the gain has been less than was expected is due to defiance of that opinion. The people of Pennsylvania have been thwarted, but not deceived. They know perfectly well that the new law but partially fulfils their wishes, and that their money, which will be spent in carrying out this law, ought to have secured an absolutely free and fair ballot at no greater cost. There can be no doubt but that last year's demand for ballot reform will be heard again next year, intensified, requiring the enactment of the most perfect law that can be devised.

CHARLES C. BINNEY.

*Philadelphia.*